

How to stop an eviction

The experience of the *Plataforma de afectados por la hipoteca* (Platform for people affected by mortgages)

Ada Colau, 1st July 2011

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<http://www.afectadosporlahipoteca.com>

Since the birth of the Platform for people affected by mortgages (PAH) in February 2009 we knew that we had two main objectives: **debt cancellation by property return*** (meaning that the property is returned to the bank in return for cancellation of the debt, avoiding the sentencing of families to a life in debt) and to **halt evictions**. We wanted to put an end to this violence that is leaving thousands of families on the streets while financial institutions with serious responsibility for the current crisis accumulate thousands of empty flats, waiting to be able to speculate with them again.

While we encountered few problems launching the debt cancellation by property return* campaign, stopping evictions was more difficult. There are various explanations for the **initial difficulties**. Firstly there was a judicial reason: foreclosure proceedings can easily take one and a half or even two years to pass through the courts. This process leads to the eviction order, the last step in the eviction procedure, which can take even longer to arrive. The explosion in the rate of evictions due to non-payments of mortgages since 2010 is a result of procedures that started in 2008 and 2009.¹

Secondly, and much more importantly, we discovered that convincing the very people affected that it was worth resisting evictions would be much more difficult than we had at first imagined. We expected to find people furious with a system that is openly and obscenely unfair, that overprotects financial institutions and leaves thousands of people on the street, in debt and sentenced to social exclusion for life. However, in regular meetings with hundreds of people affected by the mortgage fraud that has been taking place since 2009, we found that above all people were depressed, with strong feelings of guilt and personal failure, and with no horizon of possibilities.

Therefore to be able to take on evictions, the first thing we had to do was to **create and to consolidate a space of trust**, a stable meeting place where the affected persons would feel 1/ that their problem was not individual but collective, that it had structural causes 2/ that it was a consequence of the latter, therefore there being no need to feel guilt or shame, and 3/ that with collective action reality can be transformed to make possible what seemed impossible. But for these points to become more than theoretical aspirations, something essential was still missing: a first case that would bring them to life, a **small great victory** that would demonstrate that yes, together we can.

And it came by the hand of Luis, a brave and affectionate man from Bisbal del Penedes who, upon learning that the eviction order could not only leave him on the street but would risk his shared custody of his 11 year old son - precisely for not having a home to offer him -, decided to stand the fight. This was how the PAH started the **Stop Evictions campaign**, stopping the first eviction on the 3rd of November 2010. Since then it has applied the same action protocol that has allowed us to stop more than 60 evictions in 8 months.

Action Protocol

There are some key principles that need to be taken into account before stopping an eviction:

1. Everything we do is to avoid the eviction of a person or family, therefore their will and welfare will always be a priority.
2. Paralyzing an eviction is an act of civil disobedience: we understand that against laws that we consider unjust, actively disobeying them is not only a right but also a duty of the population. This disobedience is not gratuitous: it is rooted in a superior legality systematically violated by the Spanish state: that of human rights²

¹ According to the General Council of the Judiciary, between 2007 and the first quarter of 2011 almost 300,000 foreclosures were initiated state-wide. In 2010 alone there were 93,636. The most affected autonomous communities* are, in order: Andalusia, Catalonia, Valencia and Madrid. By the 2011 data, 241.5 repossession processes are started each day in Spain.

² The massive repossessions and evictions for economic reasons in the Spanish state violated, inter alia, section 24 (effective remedy) and art.47 (right to housing) of the Spanish Constitution; Art. 25 of the Universal Declaration of Human Rights and art. 11 of the ICESCR ratified by the Spanish state, specifically the General Comments of the UN CESCR no. 3 (obligations of states), no. 4 (Right to Housing) and no. 7 (prevention of forced evictions). More information on "Right to housing and housing policy: Report of a misunderstanding," the Observatory DESC: <http://observatoridesc.org>

3. The PAH only mobilizes for cases involving a households' primary and only place of residence*, for which the cause of default is unforeseen or involuntary. In other words, we will only stop evictions that threaten the right to housing.
4. The PAH is not, nor wants to be, an on-call eviction resistance group. It will not mobilize hastily, from day to day, without knowing well the case in question. We do not want to be "anti-eviction professionals" but rather to help build collective processes that allow us all to take on the daily injustices we face.

The **day of the eviction** it is sensible to call the **public demonstration** at least half an hour before the time fixed by the court for the eviction. Since, unfortunately, dozens of evictions are carried out every day, the judicial commissions in charge of executing evictions treat the process as routine. This means that, in general, for a first attempt at eviction, they are not provided with special resources and the commission visiting the appointed dwelling consists of a judicial clerk, a bank solicitor and at most a local police patrol.

In this scenario it is relatively easy to stop the eviction. With just a **peaceful but convincing** group of people, we position ourselves in front of the door preventing access to the judicial commission. It is not the role of the judicial clerk to use any physical force: for that there must be an express order of the judge in addition to the eviction order. Thus usually, faced with the demonstration, the judicial commission decides to suspend the eviction. Upon returning to the court they will inform the judge of that it was impossible to carry out and the judge should set a new date to be notified to the person/s concerned. Occasionally the judicial clerk notifies the affected person of the suspension at the time, but often the judicial commission does not even approach the demonstration and returns directly to the court. To obtain confirmation of the suspension it is best to contact your lawyer*, or if you have no lawyer* that the individual concerned goes to the court in person. In general it is best that the person concerned is in their home, showing with their attitude that they do not intend to leave the property. However in the event that the judicial commission wants to give notice of suspension, considering that it can only be given to the affected person themselves, it is recommended that this person come down to the street (although always protected by the solidarity demonstration). While the suspension is uncertain, the commission could interpret the court order liberally and execute it later than the precise time set for eviction, so it is advisable to maintain the demonstration until at least after the closing of the courthouse (15h).

For the **action to go well**, it is recommended that people who are familiar with the case and the action protocol take on **some tasks**: a) Dialogue with the judicial commission and/or police: one or two people to convey why the action is taking place (the defence of fundamental rights, the protest of unjust laws), using a polite and relaxed yet firm tone; b) Family support: one or two people that at all times accompany the family inside the house, ensuring that they are kept well informed of events outside (the situation is hard enough already, we must ensure that the anxiety is not worsened by lack of information); c) People invigorating the demonstration: sometimes there will be hours of waiting before the suspension is confirmed, so it is essential that there are people who will inform the assembled supporters of the steps being taken, of how we will act if the police comes, etc, while at the same time keeping spirits up by leading chants and songs that represent our common cause; d) Dialogue with media: this is useful to ensure maximum impact of our action. It is important to get across what we denounce but above all we must communicate the fact that there are possible solutions and people responsible that choose not to carry them out (financial institution, administration).³

Finally, note that this demonstration technique normally works for a first call for eviction, when the court will rarely provide **police presence**. However after the first suspension is achieved, the following eviction orders usually include a request for action by law enforcement to ensure that the eviction takes place. There are still chances of stopping it - with a truly massive demonstration, for example - but we must not become obsessed in thinking everything is limited to the day of the summons, as will be discussed below.

Stopping an eviction is certainly a very important moment of **collective empowerment**, in which we achieve several things at once: first, we demonstrate to ourselves that together we can deal with injustice and defend our fundamental rights; second, we achieve that the person/s directly affected can stay longer in the home; thirdly, we highlight one of the most graves acts of violence to take place on a daily basis, to strip a family of their home, leaving them on the street without alternative relocation and all this only to deliver the empty house to a bank so that it can speculate with it once again. Precisely because we consider essential to highlight this, the *PAH* always invites the media to cover actions to stop evictions.

But we must not forget that the day we stop the eviction is just that: one day. The time **before and after** are equally, if not more important. Therefore the *PAH* has learned that to responsibly encourage people to resist eviction, you must provide a network of support and a plan to resist the threat of eviction before and after the day appointed by the court.

So, once we know the case and ensure that it is the occupants' primary and only place of residence*, we dialogue with their lawyers*, with the judicial clerk, with municipal social services and housing offices of the autonomous community*. We try to stop the eviction using the (few) legal channels available. The judge may, in fact, postpone the eviction for a few months if he has knowledge of a reasonable possibility that such person or family can have a choice of resettlement in the short or medium term. We have suspended several evictions by asking social services to send a letter to the court explaining that they have

³ On the website of the PAH (www.afectadosporlahipoteca.com) you can see several videos of evictions that we have stopped. We also have a model handout to distribute at the demonstrations, where the protocol we follow is summarized and explained, enabling everyone to be informed and to share it.

nothing to offer at present but that, within one, two or three months, they believe they can offer social housing to the affected household. We have also succeeded in stopping some evictions by pressuring the financial institution (especially denouncing the case in the media) to agree to let the family stay as tenants⁴. When such strategies are exhausted we call a public demonstration to prevent the eviction through nonviolent direct action.

And once postponement is achieved (which is usually between one and four months, although it has sometimes been only two weeks) we have not finished, just the opposite: **now is the time to push harder**. The same day as the suspension, the PAH often takes advantage of the fact that there are dozens of people gathered to (once we are certain that the eviction has been suspended) go in protest to the **offices of the city or district authority**. We use popular pressure, the visibility given to us by stopping the eviction and also the media that may have accompanied us to demand that a municipal official receive us and make commitments regarding the particular case and, if possible, to open a general communication/intervention channel for other similar cases. What can the local authority do? They can mediate with the financial institution and pressure them to reconsider offering a social rent, or, where that is not possible, they not only can but must provide the necessary resources to ensure decent rehousing, since a local authority cannot ignore that vulnerable citizens remain unprotected and are having their fundamental rights violated. Beyond the local administration, the autonomous community* can also be challenged and of course different **actions can be taken to pressure the financial institution**. For the latter it is advisable to involve the media, since we have found that one of the few things which financial institutions are very sensitive to is damage to their public image.

One of the actions we have been taking increasing often is holding demonstrations at the bank branch where the mortgage agreement was signed, using the adhesives of the PAH (which say "this bank deceives, defrauds and evicts people from their home") and informing customers of the abusive practices of that entity. These act as mechanisms to pressure the director of the office to receive requests from the affected family and commit to support them against the central offices of bank or building society.

That said, it is necessary to recall that the **PAH and the Stop Evictions campaigns have not been conceived as tools for aid or charity, but as tools for collective action to enforce our rights**. Thus the actions described above make sense if it is the person/s affected that takes action first: that go to the social services, the court, to the branch, etc. We are not driven by charity, but by the defence of collective rights, social justice and solidarity.

15M and new challenges

As soon as the PAH received the first call outs for the 15M demonstrations, we knew we would join them. The slogan "We are not commodities in the hands of bankers and politicians" represented us perfectly. That is why we not only called upon our supporters to attend the demonstration but also sought to **participate actively**. In Barcelona, for example, at the invitation of Real Democracy Now (*Democracia Real Ya!*) and called on all protesters to join in **the fight against evictions**, participating in the following attempt to stop an eviction we had in our schedule, which was in Badalona.

We have been excited about the explosion of solidarity that we have experienced since then. In some ways you could say that the PAH and the 15M movement have been a "**perfect match**": on the one hand, the PAH has seen increased dissemination of its callouts throughout social networks, hundreds of people have mobilised to stop evictions, and many new local PAH's have formed linked to 15M assemblies. On the other hand, the 15M movement, after the first phase of expression of distress and indignation, wanted to summarise their objectives and found the previous work done by PAH a useful source when searching for objectives, solutions and for those responsible for the problems we face, at least in the field of housing and finance. Thus the 15M movement soon adopted as their own the campaigns for debt cancellation by property return* and against evictions.

The broad civic mobilization that the 15M has been of course goes far beyond the PAH, and has **expanded the scope of eviction resistance activity to problems faced by renters**. The PAH also supports these calls, as long as they relate to primary places of residence* and as long as the cause of default/eviction is economic (insolvency motivated by unemployment, illness, separation, etc). And so, after the initial euphoria of discovering that together we can achieve concrete and important things, we must be careful to avoid mistakes that could give arguments to our enemies. In recent months, in Madrid or Barcelona for example, hasty call outs have been made without verification of the details of the case being defended. We have found out too late that occasionally there are those who seek to benefit from a collective struggle for individual purposes beyond the right to housing. Furthermore, in the case of non-payment of rent, we must distinguish between cases of small-scale landlords in difficulty and large-scale commercial landlords who only want houses for speculation. In the first case, surely the most useful response will be mediation, looking for the best solution for both parties, whereas in the second case, we can act with all our strength since no speculation is tolerable when lives are at stake.

These are some of the new challenges: **growing in mobilization without losing precision**. There's more: the power of the Stop Evictions struggle, which highlights the speculative and financial heart that has kidnapped democracy, without doubt will make the elites and the powers-that-be seek ways to disable it. We are already seeing, for example, how some judges are beginning to give evictions open dates, preventing the convening of demonstrations at a specific date and time. We will have to think of new strategies, perhaps as they are already doing massively in the United States: not paralyzing the eviction, but helping families to re-occupy their homes.

⁴ Translators' clarification: after the bank has repossessed the home

One thing is certain: we have lost the fear and shame, and we have experienced that truly together we can. And that is irreversible. See you in the squares!*

Translators' notes:

Debt cancellation by property return is how we have referred to a *dación en pago*, a formal Spanish legal process by which a property is returned to a bank in return for full cancellation of the debt. This demand would be a standard clause in a mortgage agreement in many countries (e.g. USA) but in Spain debtors remain liable for the value of debt that banks have not been able to recuperate through the sale of the repossessed home. With property prices falling more than 50% in many parts of Spain since 2006, this means that without a *dación en pago* debtors can remain hundreds of thousands of euros in debt despite having had all their assets stripped by banks.

Spain is divided into **autonomous communities** (*comunidades autónomas*) that can be thought of as regions or states. These large regional authorities (such as Cataluña, Andalucía or the Canary Islands) subdivide into municipal and county authorities.

All references to 'lawyers' in this text in the original refer more specific to *abogados de oficio*, publicly-funded and solicited lawyers that many of those facing evictions meet the criteria to be able to access.

We have referred to '**primary place of residence**' where the original text states *vivienda habitual y única residencia*: this would be more faithfully, if less neatly, translated as "lived-in property and only place of residence".

Here we have preserved the Spanish '*plazas*' as 'squares' although in many English-speaking cultural contexts "See you in the streets!" would probably be the slogan used to convey the same sentiment.